IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3967 OF 2007

Mukhtar Ahmed Ansari .. Petitioner.

Versus

Municipal Corporation of

Greater Bombay .. Respondents.

Mr.V.R.Tripathi i/b.M/s.V.R.Tripathi & Asso. for petitioner.

Ms.Nisha A.Dabhade for defendant-B.M.C.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5TH JULY, 2007.

P.C.:

1. Heard Mr.Tripathi, learned Advocate appearing for the petitioner and the learned Advocate appearing for the Bombay Municipal Corporation on notice.

2. The grievance in the present petition is that a suit was filed in the City Civil Court at Mumbai and the City Civil Court heard the application for interim relief. After observing that the relief as prayed cannot be

granted, the petitioner was given liberty to approach the Bombay Municipal Corporation for regularisation of the unauthorised construction / structure at the relevant site. That order granted time to approach the corporation for regularisation and in the meanwhile protecting the petitioner's construction.

3. Admittedly, the application for regularisation made through an Architect was beyond time stipulated in the order of the City Civil Court and, therefore, another application was made for extension of time, which has been rejected by the impugned order.

4. That is how the present petition.

5. After having heard Mr.Tripathi and the learned Advocate for Bombay Municipal Corporation at length, I am of the view that the interest of justice would be sub served if in the peculiar facts of this case, liberty is granted to the petitioner to approach the Bombay Municipal Corporation afresh vide comprehensive proposal for regularisation of the said construction / structure and if such a proposal is made / filed within a period of four weeks from today, the corporation to accept and communicate to the petitioner within a period of six weeks

from the date of its receipt, the outcome thereof.

6. Needless to add that if the proposal as above is not moved within the time stipulated above, the corporation would be free to proceed with the action as threatened under Section 351 of the Bombay Municipal Corporation Act. Further needless to add that if the structure at site is not yet demolished, the status-quo as of today in respect thereto shall be maintained for a period of four weeks from today. It is clarified that the proposal shall include not only the weather shed and enclosed grills with collapsable gate but also the loft in the shop premises. Since this direction is comprehensive and fully protects the parties, nothing survives in Long Cause Suit No.5002 of 2001 pending on the file of the City Civil Court at Mumbai and the said suit shall stand disposed of accordingly. All interim applications also would not survive and are accordingly disposed of. No order as to costs.

7. Needless to state further that the petitioner would always be at liberty to challenge the orders / action of the Bombay Municipal Corporation if the same is adverse to him.

(S.C.Dharmadhikari, J.)